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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/858,036	05/15/2001	Shinichi Kanno	31090.0015	2475	
7	590 10/04/2004		EXAMINER		
Ranjana Kadle			MULLEN, KRISTEN DROESCH		
Hodgson Russ Suite 2000	LLP		ART UNIT	PAPER NUMBER	
One M&T Plaza			3762	,	
Buffalo, NY 14203-2391			DATE MAILED: 10/04/200-	DATE MAILED: 10/04/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

			1		
•	Application No.	Applicant(s)	^ d		
Office Action Commons	09/858,036	KANNO ET AL.	\bigcirc "		
Office Action Summary	Examiner	Art Unit			
	Kristen Mullen (formerly Droesch)	3762			
The MAILING DATE of this communication Period for Reply	appears on the cover sheet with	the correspondence address	,		
A SHORTENED STATUTORY PERIOD FOR RE THE MAILING DATE OF THIS COMMUNICATIO - Extensions of time may be available under the provisions of 37 CFr after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a - If NO period for reply is specified above, the maximum statutory per - Failure to reply within the set or extended period for reply will, by st Any reply received by the Office later than three months after the mearned patent term adjustment. See 37 CFR 1.704(b).	NN. R 1.136(a). In no event, however, may a rep . I reply within the statutory minimum of thirty (riod will apply and will expire SIX (6) MONTH atute, cause the application to become ABAI	ly be timely filed 30) days will be considered timely. IS from the mailing date of this communication NDONED (35 U.S.C. § 133).	ion.		
Status					
1) Responsive to communication(s) filed on 8.	/31/04 (after final amendment).				
2a) This action is FINAL . 2b) ⊠ 1	This action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice und	er <i>Ex par</i> te Quayle, 1935 C.D.	11, 453 O.G. 213.			
Disposition of Claims					
4) Claim(s) <u>1-15</u> is/are pending in the applicate 4a) Of the above claim(s) is/are with 5) Claim(s) is/are allowed. 6) Claim(s) <u>1-15</u> is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and	drawn from consideration.				
Application Papers					
9) The specification is objected to by the Exam 10) The drawing(s) filed on 15 May 2001 is/are: Applicant may not request that any objection to Replacement drawing sheet(s) including the col 11) The oath or declaration is objected to by the	: a)⊠ accepted or b)☐ objecte the drawing(s) be held in abeyanc rrection is required if the drawing(s	e. See 37 CFR 1.85(a).) is objected to. See 37 CFR 1.121			
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for force a) All b) Some * c) None of: 1. Certified copies of the priority docum 2. Certified copies of the priority docum 3. Copies of the certified copies of the priority docum application from the International Bu * See the attached detailed Office action for a	nents have been received. nents have been received in Ap priority documents have been r reau (PCT Rule 17.2(a)).	plication No eceived in this National Stage			
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SE Paper No(s)/Mail Date	′	Mail Date ormal Patent Application (PTO-152)			

Application/Control Number: 09/858,036

Art Unit: 3762

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 2. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Donovan et al. (2002/0010492).

Regarding claims 1, 6, and 11, Donovan et al. shows a method of increasing VEGF in a muscle cell and angiogenesis in a muscle tissue comprising the step of applying electrical voltage to the muscle cell or one or more areas of the muscle tissue, wherein the electrical voltage does not induce contraction of the muscle cells and wherein VEGF is increased and angiogenesis is induced after application of the electrical voltage ([0004], [0028],[0039], [0049], [0054-0055], [0083-0084].

Referring specifically to claim 6, although Donovan et al. does not specifically point out the increase of VEGF mRNA but points out an increase VEGF expression (claims 32, 49, 52) the Hang et al. article VEGF gene expression is upregulated in electrically stimulated rat skeletal muscle used the terms VEGF expression and VEGF mRNA interchangeably.

With respect to claims 2, 7, and 12, Donovan et al. shows the voltage is 0.1V at 50Hz [0054-0055].

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Regarding claims 3- 5, 8-10, and 13-15, Donovan et al. shows the muscle or muscle cells are smooth, skeletal or cardiac [0079].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Mullen (formerly Droesch) whose telephone number is 703-605-1185. The examiner can normally be reached on 10:30 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kdm

Viste Mullen

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angel. D Sophy